

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Drewes Farms Partnership,

Case No. 3:19 CV 434

Plaintiff,

AGENDA FOR HEARING

-and-

JUDGE JACK ZOUHARY

State of Ohio,

Intervenor,

-vs-

City of Toledo,

Defendant.

Rule 12(c) Motions are pending (Docs. 34, 35, 47, 48). An in-person Hearing is set for **Tuesday, January 28, 2020 at 10 AM** (Doc. 57). Counsel shall prepare to answer the questions below, with record and legal citations as appropriate. If counsel will cite authority not cited in any party's briefing, counsel shall disclose the authority to each other and to this Court by **January 26**.

**Standing**

1. Can the Lake Erie Bill of Rights ("LEBOR") apply to polluters located outside Toledo? Does it? Given that Drewes Farms does not operate in Toledo (Doc. 35-1 at 9), does Drewes Farms have standing in this case?

2. Does the State of Ohio meet the injury-in-fact requirement for standing?

3. Can this Court reach the merits if the State -- an Intervenor -- has standing but Drewes Farms -- the Plaintiff -- does not?

4. LEBOR became part of Toledo's charter through ballot initiative, not legislative enactment. Does this circumstance affect standing or the merits?

**Merits**

5. Under the void-for-vagueness doctrine, what level of scrutiny should LEBOR receive? Address *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 497–99 (1982).

6. Is LEBOR Section 1 unconstitutionally vague? What is the best case supporting your position?

7. Are LEBOR Sections 2, 3, and 4 preempted by state or federal law?

8. How does the severability clause of LEBOR Section 6 affect this case? Address *State v. Hochhausler*, 76 Ohio St. 3d 455, 464–65 (1996).

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U.S. DISTRICT JUDGE

January 21, 2020